

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

v.

Crim. Action No. 1:21CR14  
(Judge Kleeh)

ALANTE MARTEL NELSON,

Defendant.

MEMORANDUM OPINION AND ORDER ADOPTING REPORT AND RECOMMENDATION  
[ECF NO. 42] AND DENYING MOTION TO SUPPRESS [ECF NO. 31]

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Pending before the Court is Defendant's *Motion to Suppress Evidence Obtained in Violation of Mr. Nelson's Fourth Amendment Rights* [ECF No. 31]. The Court referred the motion to the Honorable Michael J. Aloï, United States Magistrate Judge, who is designated and authorized to consider the record and rule on Defendant's motion filed in the case. [ECF No. 32]. In considering the motion, the Magistrate Judge conducted a hearing and entered into the record a written report and recommendation ("R&R") as to the appropriate disposition of the motion. [ECF No. 42].

The R&R also informed the parties regarding their right to file specific written objections to the magistrate judge's report and recommendation. The R&R stated a deadline on or before September 28, 2021, to file specific written objections. [ECF No. 42]. Therefore, parties had five (5) calendar days from the date of entry of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which

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objection is made, and the basis of such objection.” The R&R further warned them that the “[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals.” The docket reflects that the R&R was entered on September 23, 2021. [ECF No. 42]. To date, over two (2) months later, no objections to the R&R have been filed.

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, “the Court may adopt, without explanation, any of the magistrate judge’s recommendations” to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court hereby **ADOPTS** United States Magistrate Judge Aloï’s Report and Recommendation [ECF No. 42] and **DENIES** the pending motion to suppress [ECF No. 31].

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It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and all appropriate agencies.

**DATED:** December 1, 2021

/s/ Thomas S. Kleeh  
THOMAS S. KLEEH  
UNITED STATES DISTRICT JUDGE